

News Release



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U.S. Labor Department Obtains Judgment Restoring Nearly \$48,000 to Moore Communications 401(k) Plan

PORTLAND, Ore. – The Department of Labor has obtained a consent judgment restoring nearly \$48,000 to the 401(k) profit sharing plan of now-closed Moore Communications, Beaverton, Ore.

According to Francis Clisham, regional director of the department's Employee Benefits Security Administration (EBSA) office in San Francisco, "This case sends a strong message that those responsible for employee benefit plans cannot use plan assets to pay corporate debts or in any way misuse employee retirement funds."

Under the judgment, Sidney E. and Jeanette Moore are permanently barred from future service to any plan governed by the Employee Retirement Income Security Act and must restore \$47,996 to the plan, funds they commingled with the company's general assets to pay corporate obligations. The court also appointed an independent fiduciary to manage the plan.

On March 3, the Labor Department sued the Moores for failure to forward \$39,581 in employee contributions to the plan between Dec. 29, 2000, and Sept. 6, 2002. The suit also asked for \$6,869 in lost opportunity costs on the delinquent employee contributions. The couple are founders and former owners of the company as well as fiduciaries of the company's 401(k) plan.

In an earlier legal action, the department filed an adversary complaint in the U.S. Bankruptcy Court to prevent the Moores from discharging debts owed to the plan in bankruptcy proceedings. On March 8, the bankruptcy court entered a judgment determining the Moores could not discharge their plan debt.

Moore Communications, which closed its doors on June 1, 2003, was sold to Accolade Technologies Inc. The company, which specialized in sales, service and repairs of telecommunications products, sponsored the plan for 12 employees before it was sold.

Employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to correct ERISA violations but allows them to avoid EBSA enforcement actions, civil penalties and any applicable excise taxes. For more information see www.dol.gov/ebsa.

The Seattle district office of EBSA investigated the case. In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers with questions or concerns regarding their private-sector pension and health plans can contact the EBSA District Office in Seattle at (206) 553-4246 or EBSA's toll free number, 1-866-444-EBSA (3272). Information is also available from the agency's web site at www.dol.gov/ebsa.

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(Chao v. Moore) Civil Action No. 3:05-cv-00304-AS
U.S. Bankruptcy Court for the District of Oregon at Portland

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